



2016 Interim Report

August 1, 2016

Background

Under the leadership of Arturo Jaramillo, the Committee on Diversity in the Legal Profession prepared major reports for the Board of Bar Commissioners and for the general membership of the State Bar of New Mexico in 1988, 1998, and 2009. Following the last report, the Committee decided to monitor relevant data on diversity more frequently than every ten years and bring to the attention of the Board of Bar Commissioners any developments that warrant its attention.

This report comes roughly five years after the last full report in 2009. It does not contain the breadth of information contained in the ten year reports; it does not, for instance, include surveys of bar members or the results of focus groups conducted for past reports by Research & Polling. This report summarizes information available from the Bar's own records and from other New Mexico entities. The Committee very much appreciates the cooperation of the University of New Mexico law school, the State Bar Disciplinary Board, and the Board of Bar Examiners.

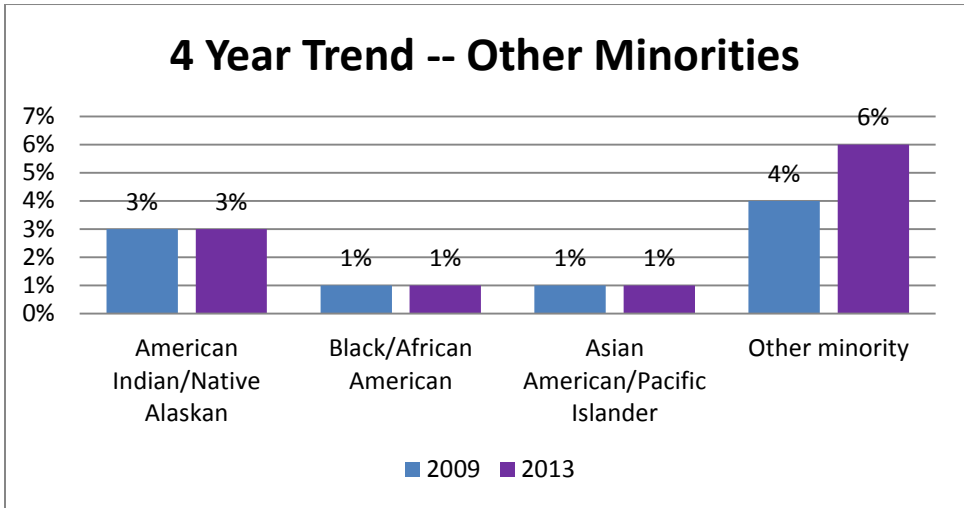
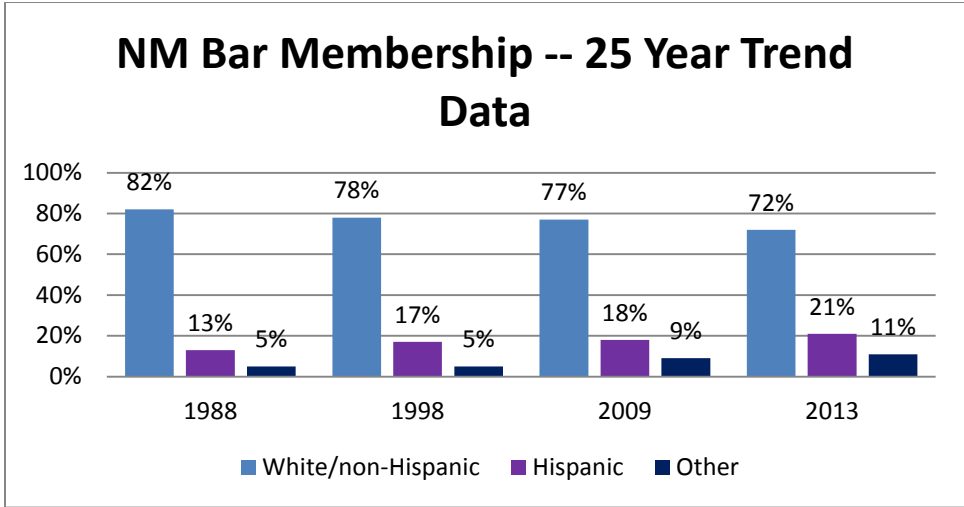
The data for this report is for calendar year 2014, with exception of racial and ethnic from the records of the State Bar. The dues payment form for 2014 included LGBT and veteran statuses in the reporting category for racial and ethnic status. The result is that the 2014 data is not comparable to the data for previous years. The dues form for 2016 has been corrected.

In the course of preparing this report, we learned that the State Bar has not retained data from prior year dues payment forms. Consequently, it is not possible to seek data on racial or ethnic issues for prior years unless a relevant report happened to be run during the year in question before the data was deleted. This practice will change for 2016 and future years; the State Bar will maintain a Sequel database containing full membership data for each year moving into the future.

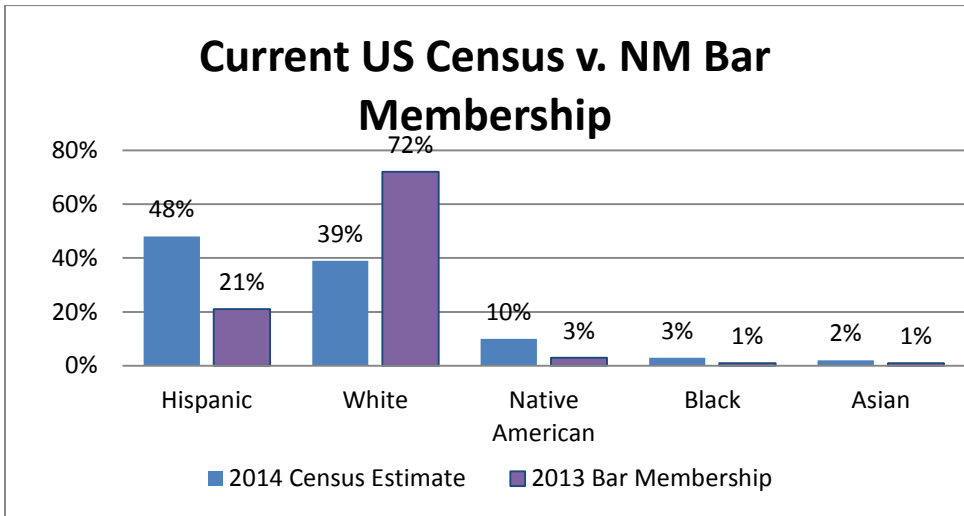
Racial and Ethnic Diversity of the New Mexico Bar

Data on the race and ethnicity of bar members is obtained from the annual dues form. Reporting that information is voluntary, and a small percentage of bar members choose not to report it.

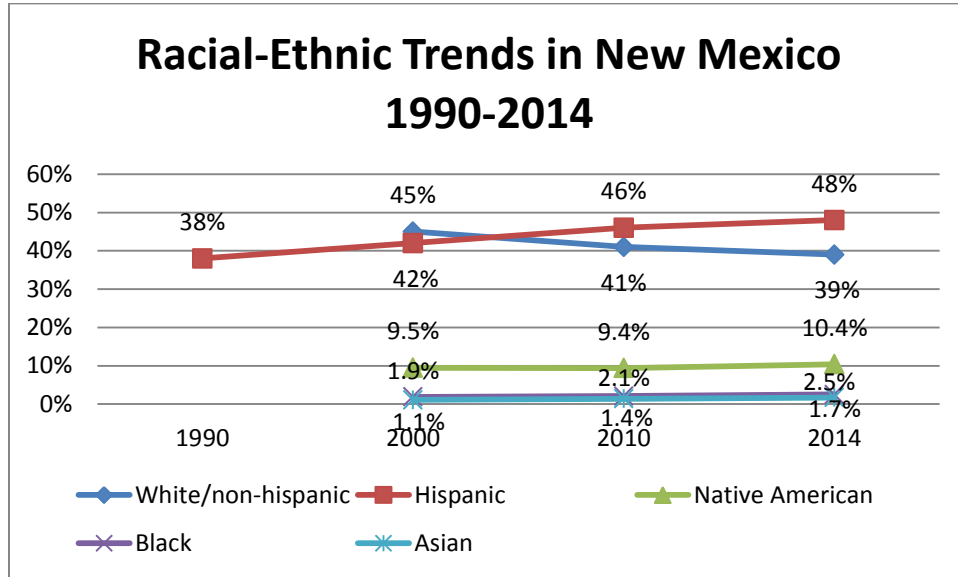
In past reports, the Committee has noted as a positive sign that the percentages of racial and ethnic minority groups have increased consistently. That trend continues through 2013. The first chart shows that the percentage of Hispanics and "Other" groups within the State Bar have increased since 2009 by three and two percentage points respectively, with the percentage of Whites dropping by five percent. The second chart shows that the increase in "Other" is not the result increases in the percentage of Native American, Black and Asian-American lawyers. The "Other" category includes persons who identify as mixed race as well as those who report a race other than those shown on the charts.



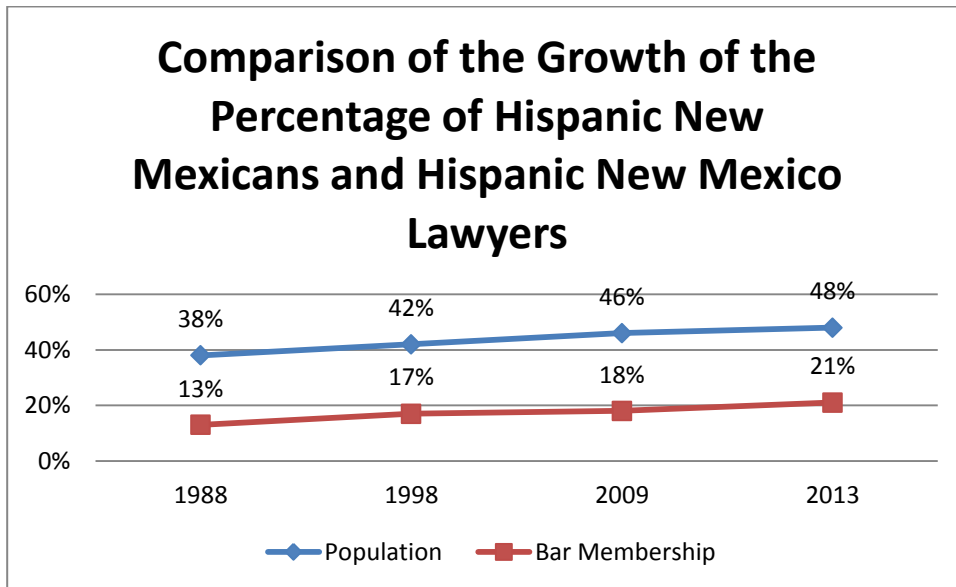
However the picture does not look as positive when compared to US Census data. That data shows that the membership of the State Bar of New Mexico remains highly skewed in favor of Whites.



And trend data shows that the New Mexico bar membership has not kept pace with the growth of the state's Hispanic population. The Hispanic population has grown by ten percent – from 38% to 48% -- since 1990. (The census did not separately report Hispanics in 1990, but compiled a special report on the topic; Hispanic is now a part of standard census reports.)

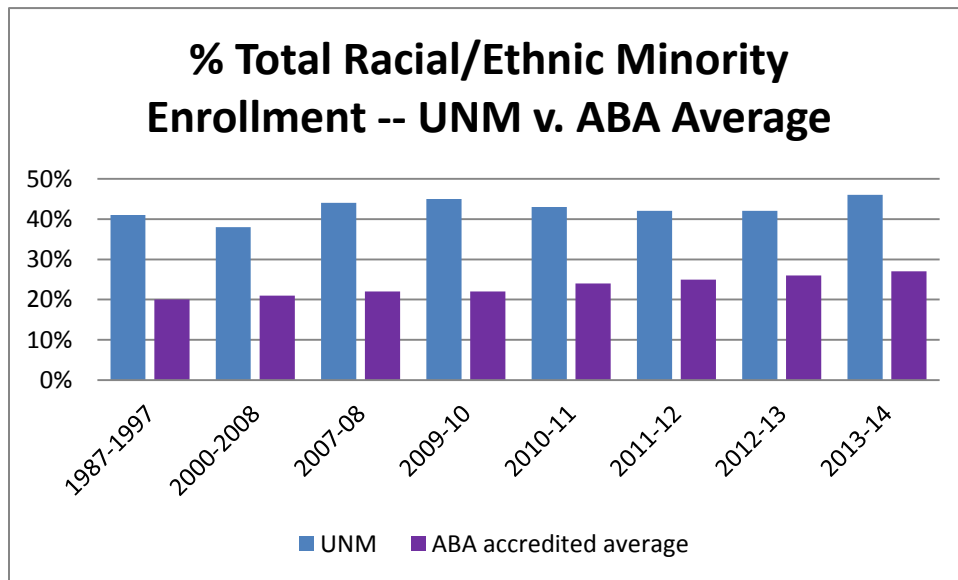
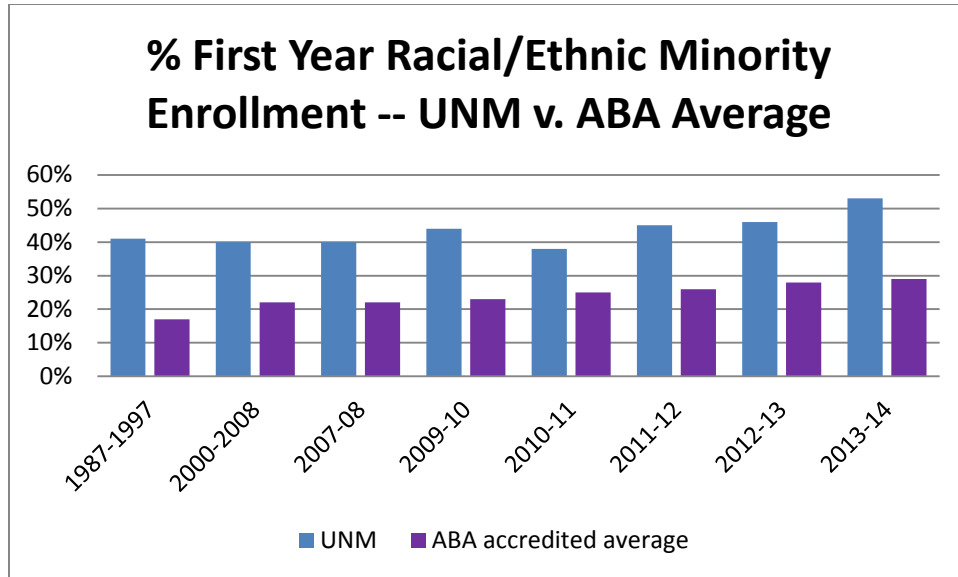


But the percentage of Hispanic members of the New Mexico bar has only risen by 8% over the same time period.

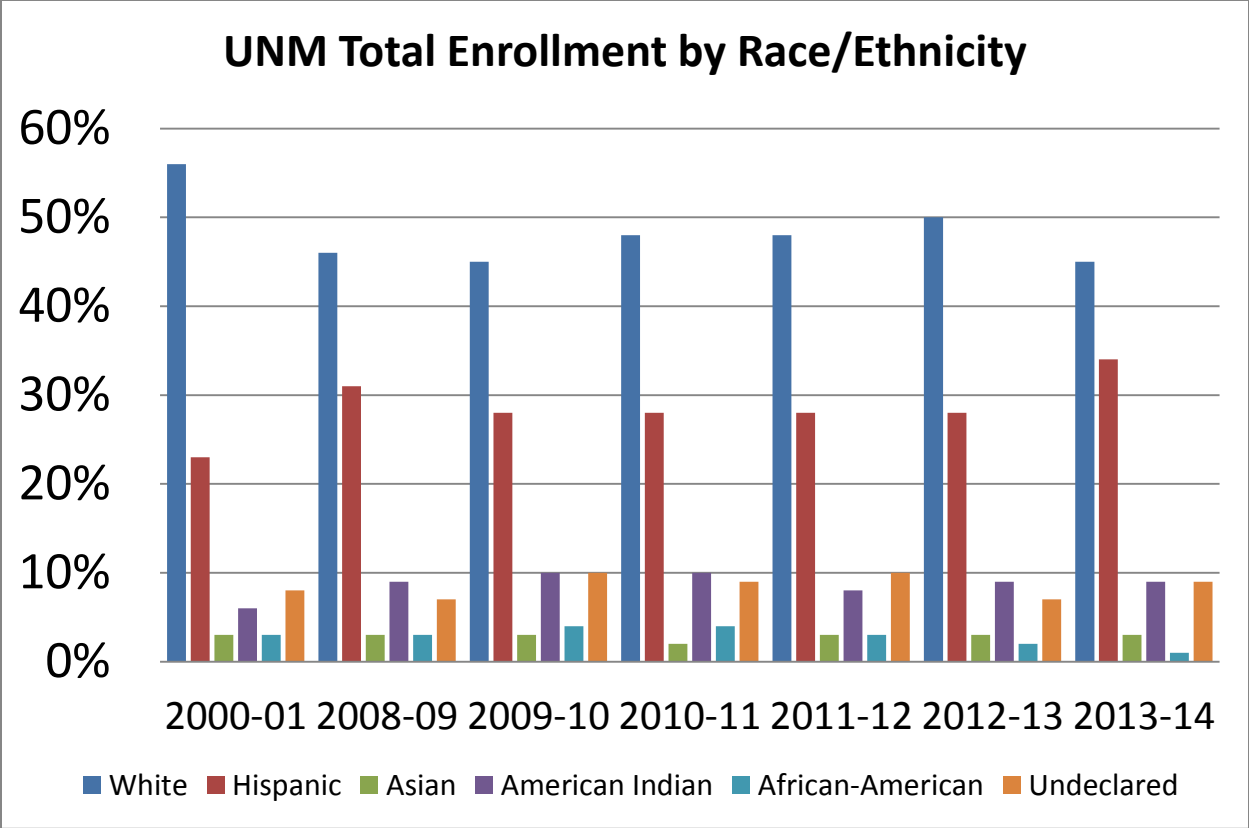


Enrollment data from the University of New Mexico shows that New Mexico does a much better job than ABA accredited law schools as a whole. The first chart shows the percentage of minority students enrolled in the first year. During the 2013-14 school year, more than 50% of the UNM entering law school class was minority. The second shows the percentage of total enrollment. While these charts

show continuing improvement, they show a continuing gap between the census data – 61% minority population – and even these very good minority enrollment figures for the University of New Mexico.

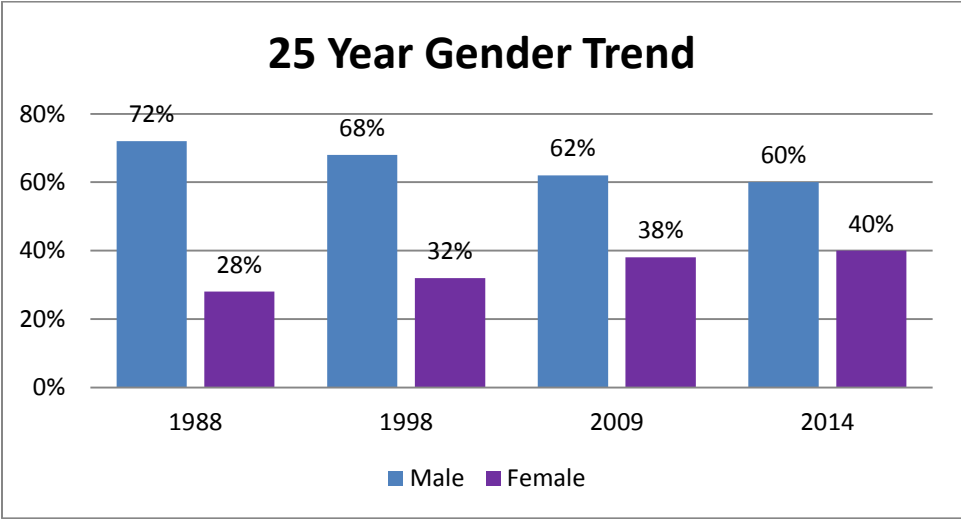


However, a more detailed breakdown shows that the percentage of Native American law students has been below its high point of 2009-10 for the past three years and that Black law student enrollment has dropped every year since 2010-11 when it was four percent – to one percent in 2013-14.

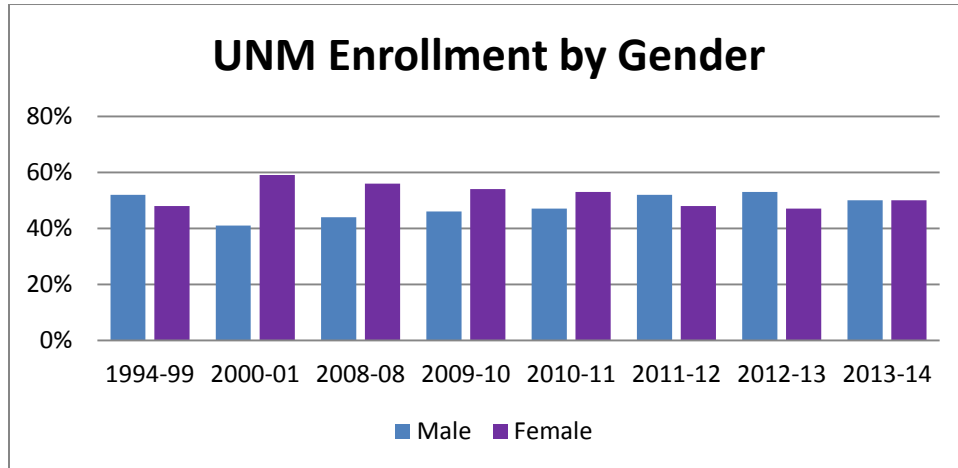


Gender

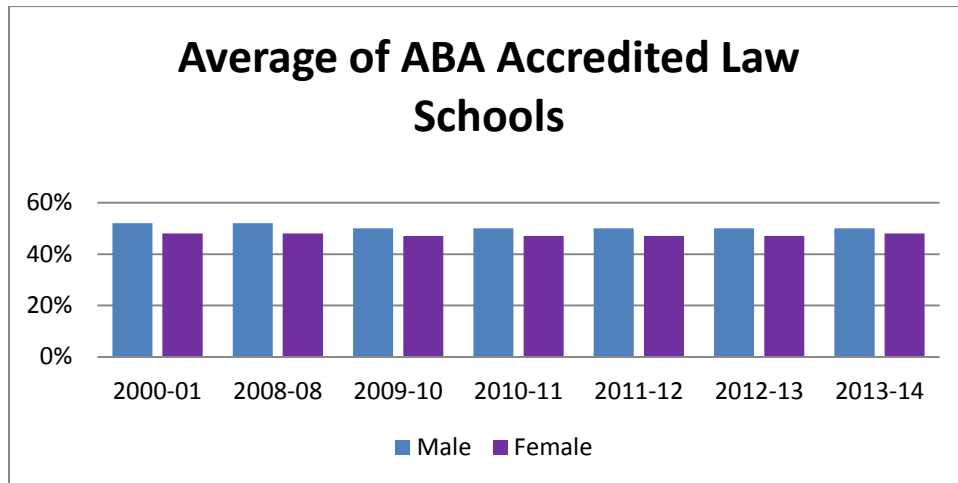
Our history on gender is more promising. The percentage of female lawyers has grown consistently since 1988, from 28% to 40%.



Enrollment data from the University of New Mexico shows that it has admitted more women than men in four of the past eight academic years.

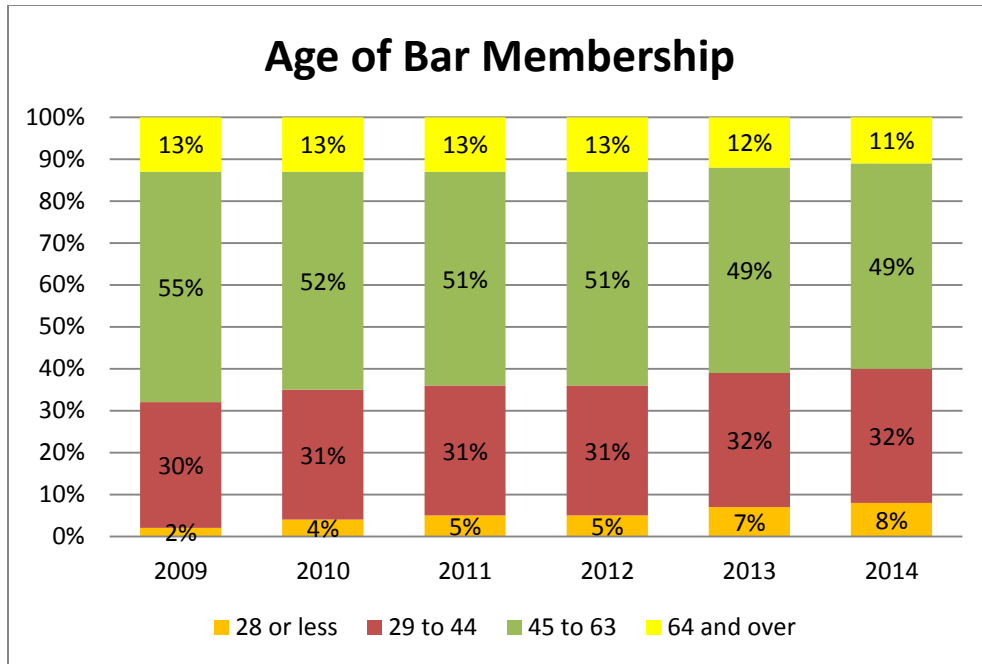


And the University of New Mexico is doing much better than ABA accredited law schools as a whole in bringing women into the practice of law.



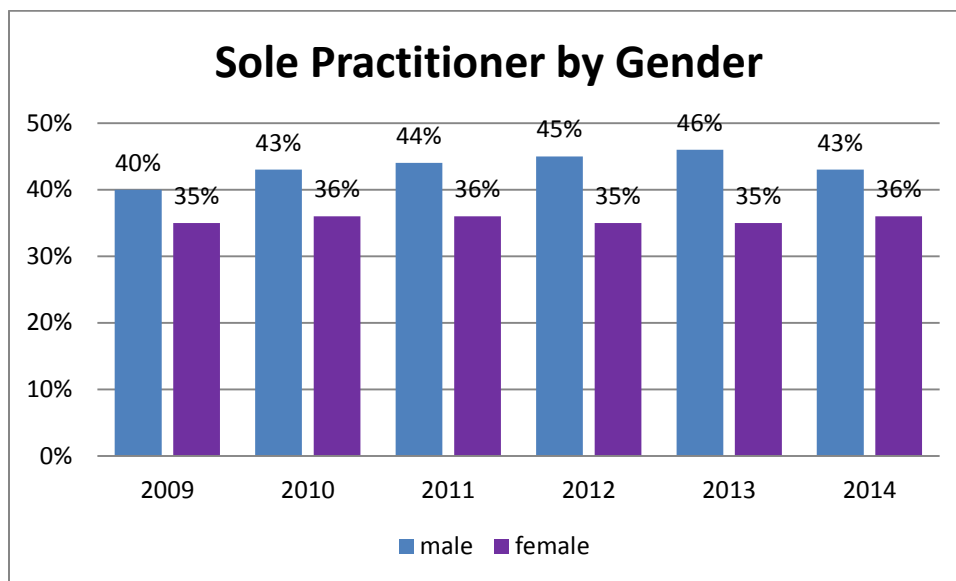
Age

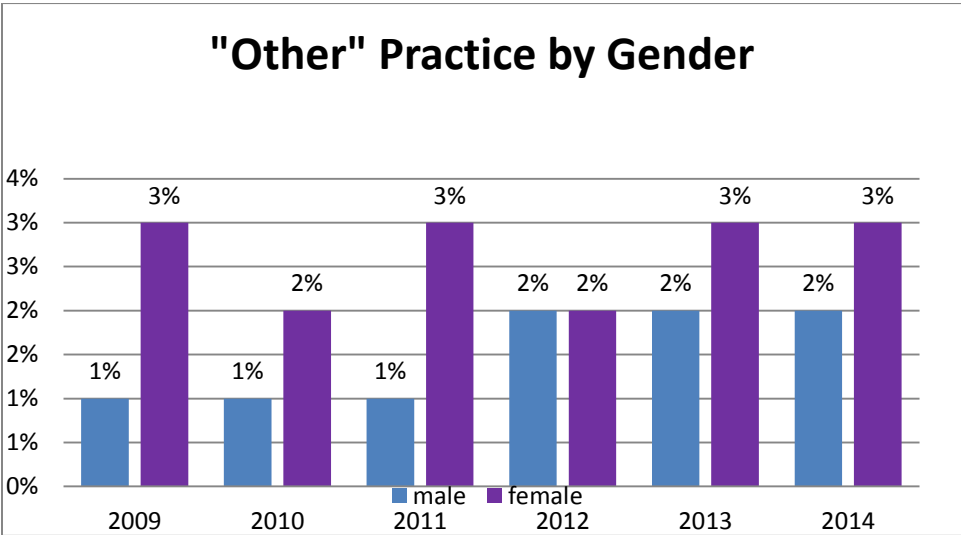
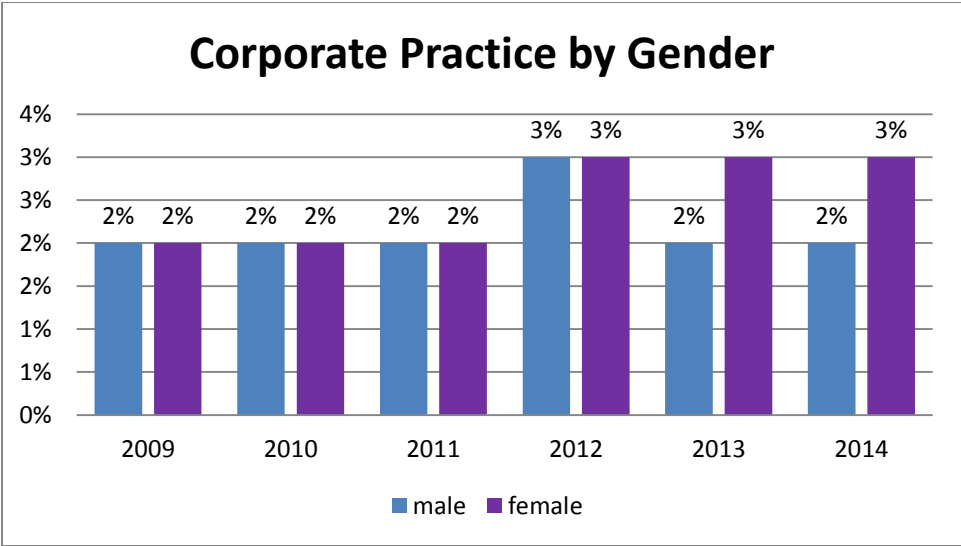
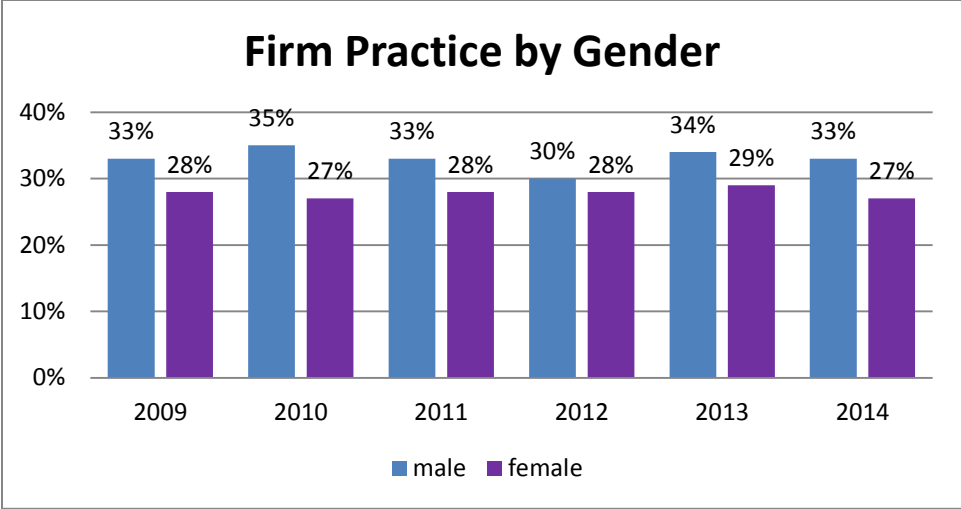
The fastest growing segment of the New Mexico bar is our youngest members. Both of the two younger age segments are increasing while the two older segments are decreasing.



Practice Setting

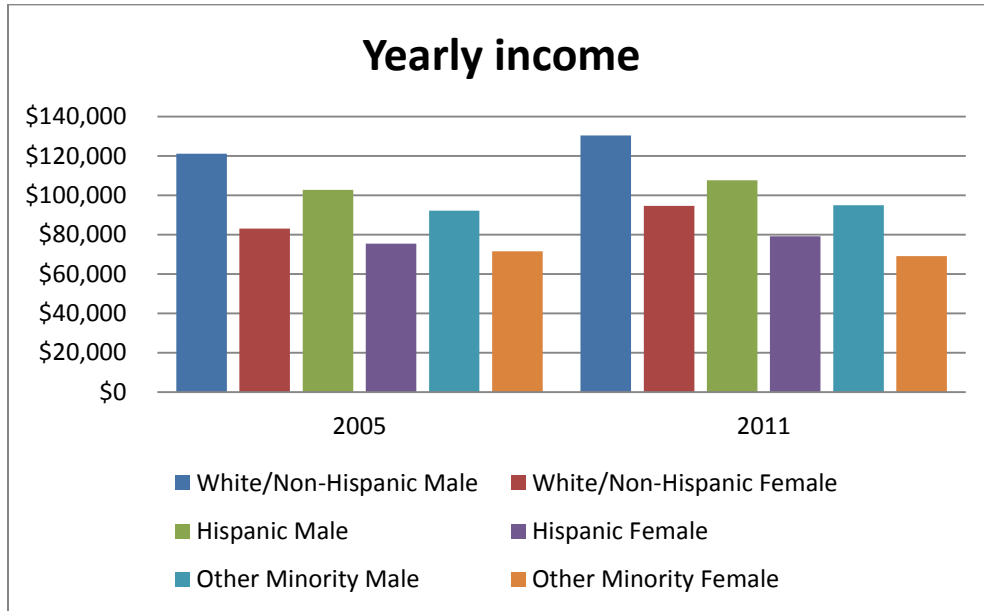
The bar staff identify practice by who pays the annual dues for a member of the bar. Data is available to show the gender of lawyers practicing as solo practitioners, firm practitioners, government, corporate, or “other” practices. Women predominate in the government, corporate, and “other” categories, but still trail behind in firm practice.





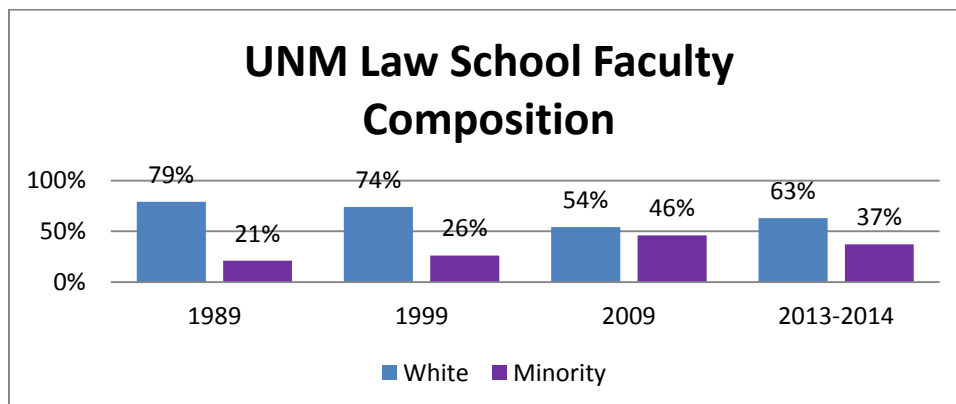
Income

The State Bar has conducted voluntary income surveys twice in the past eleven years. The last survey shows that White males continue to earn more than other groups, that males make more than females (except for Hispanics), and that the average income of other minority females actually dropped from 2005.

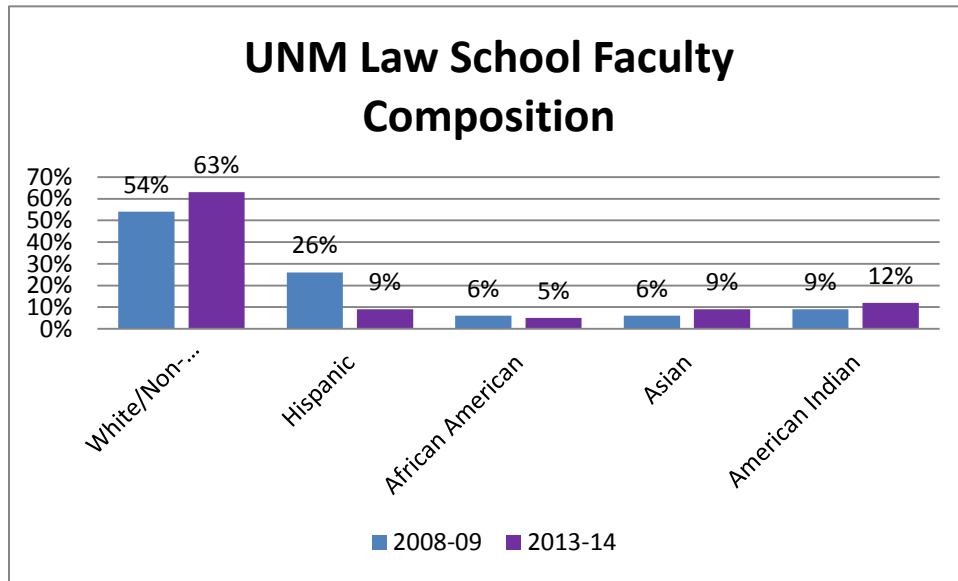


UNM Law School Faculty

The minority UNM Law School faculty has dropped since 2009 as a result of retirements.

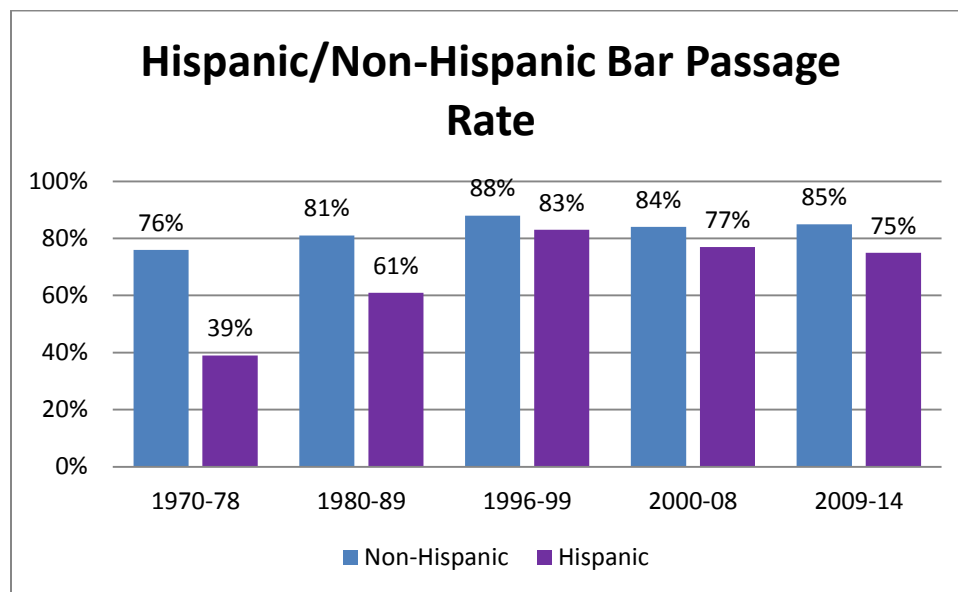


The drop has been attributable completely to the loss of Hispanic faculty members. Today the UNM law faculty includes six Native Americans, two Asians, two African-Americans, and three Hispanics.

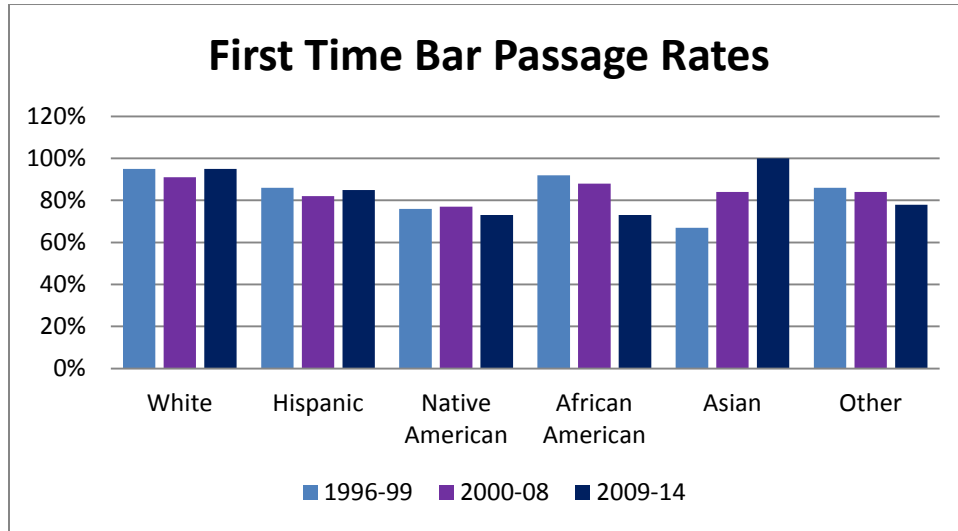


New Mexico Bar Passage Rate

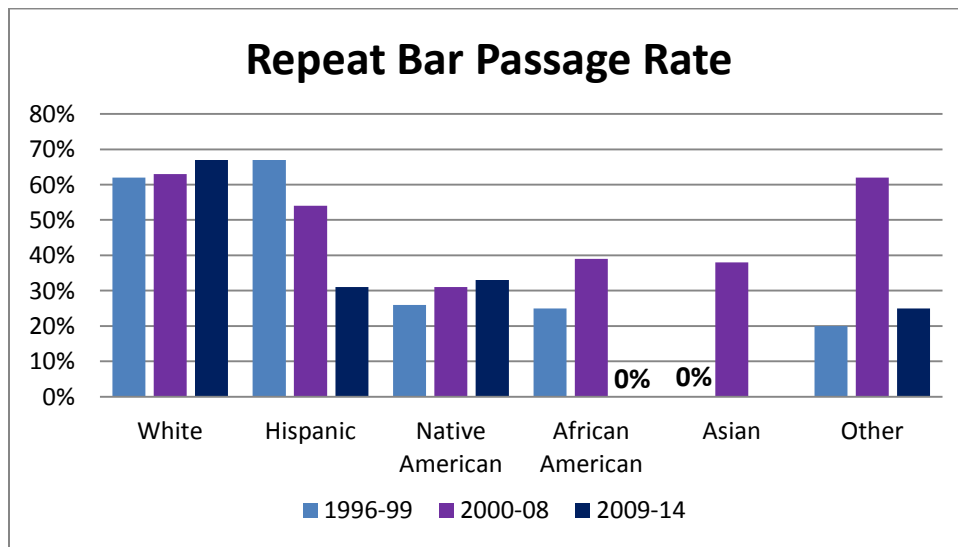
Of particular interest in New Mexico since Steve Herrera’s famous lawsuit in which the New Mexico Supreme Court invalidated the New Mexico Bar grading process because of its discriminatory impact, has been the comparison of Hispanic and non-Hispanic bar passage rates. The chart below shows a widening gap since the late 1990s from a low of 5% to the current gap twice as large.



The first time bar passage rates for all racial/ethnic groups shows a falling rate for the African American and “Other” group and a rising passage rate for Asian Americans.



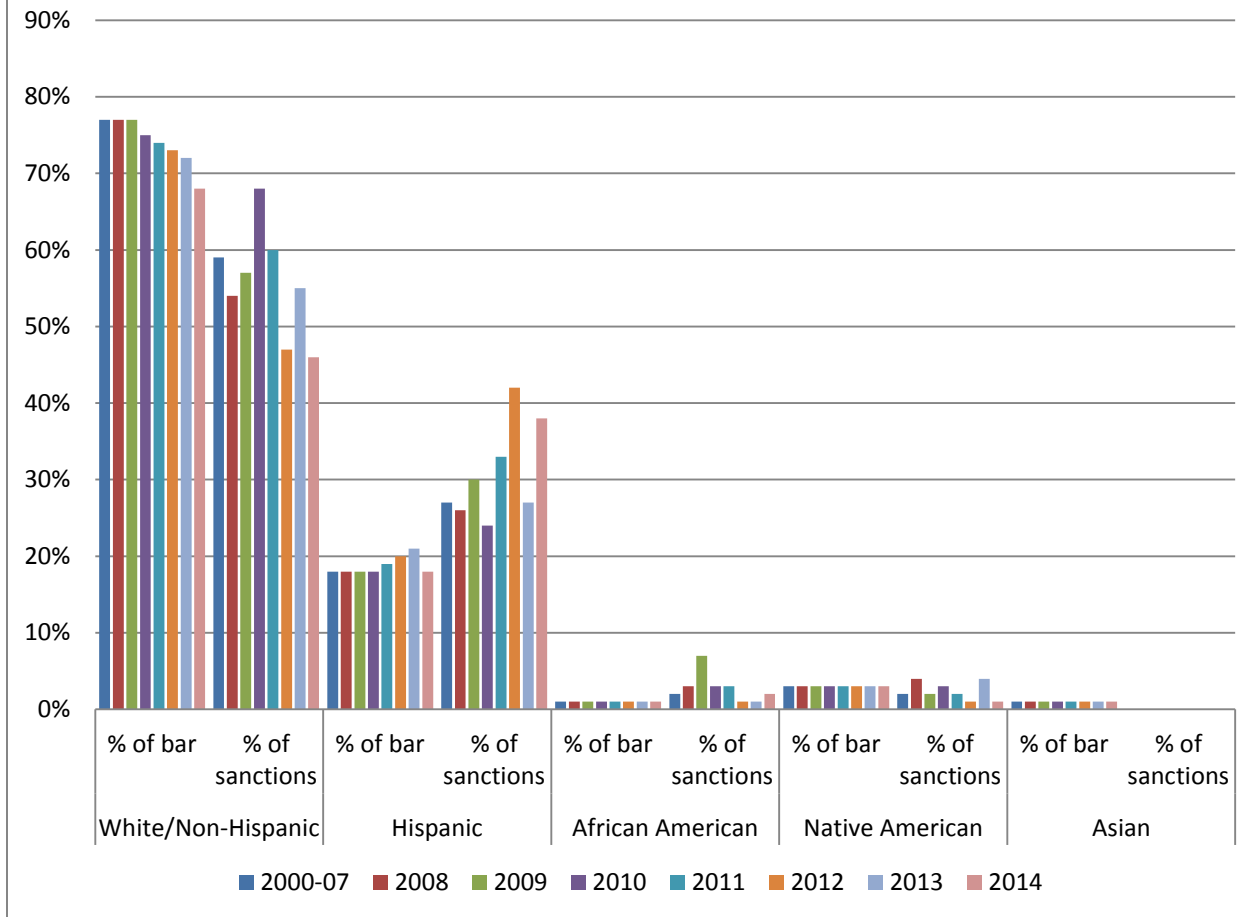
The repeat bar passage rate shows increasingly poor performance for Hispanics, African Americans, and Others. This data is likely to show more dramatic changes because of the low numbers of persons involved in retaking the bar. For instance, there is no percentage for repeat bar passage for Asians in 2009-14 because all Asians passed the bar the first time.



Disciplinary Sanctions

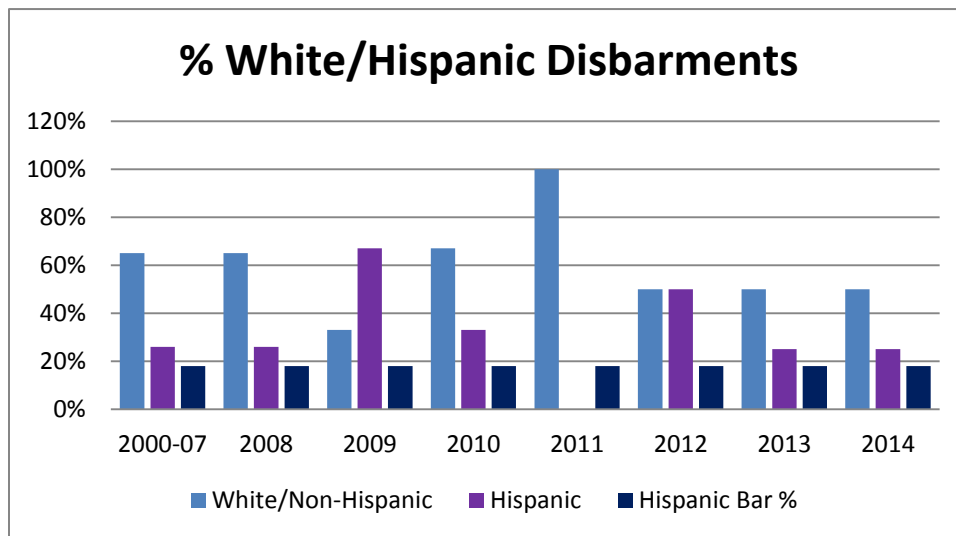
The first chart shows that White lawyers are consistently less likely to be subject to disciplinary sanctions than their percentage of the bar would predict. The opposite is true for Hispanic, African American, and (in three of the eight reporting years) Native Americans.

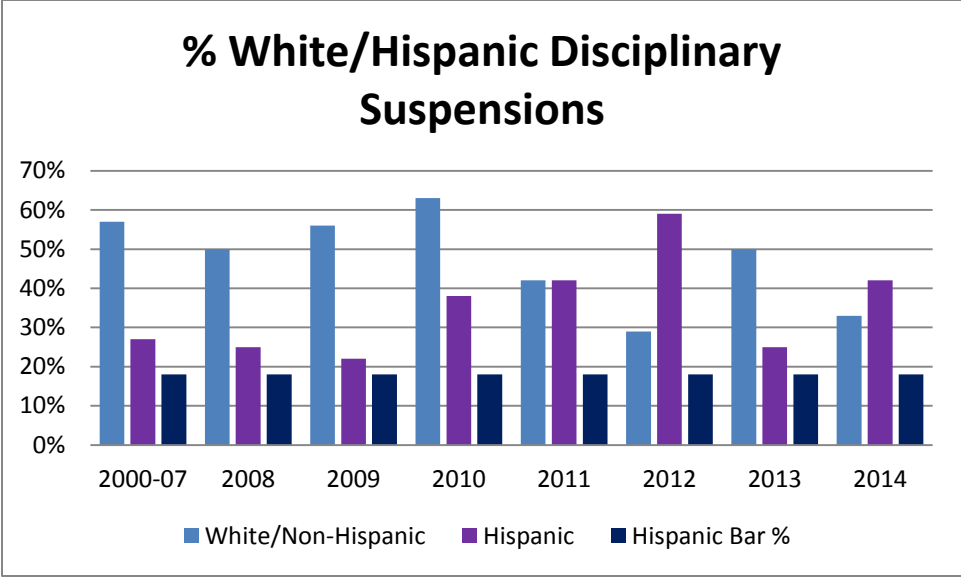
Total Bar Sanctions by Race/Ethnicity



The next two charts compare White-non Hispanic and Hispanic disbarments and suspensions. The third bar for each year is the percentage of the bar that was Hispanic in that year.

% White/Hispanic Disbarments

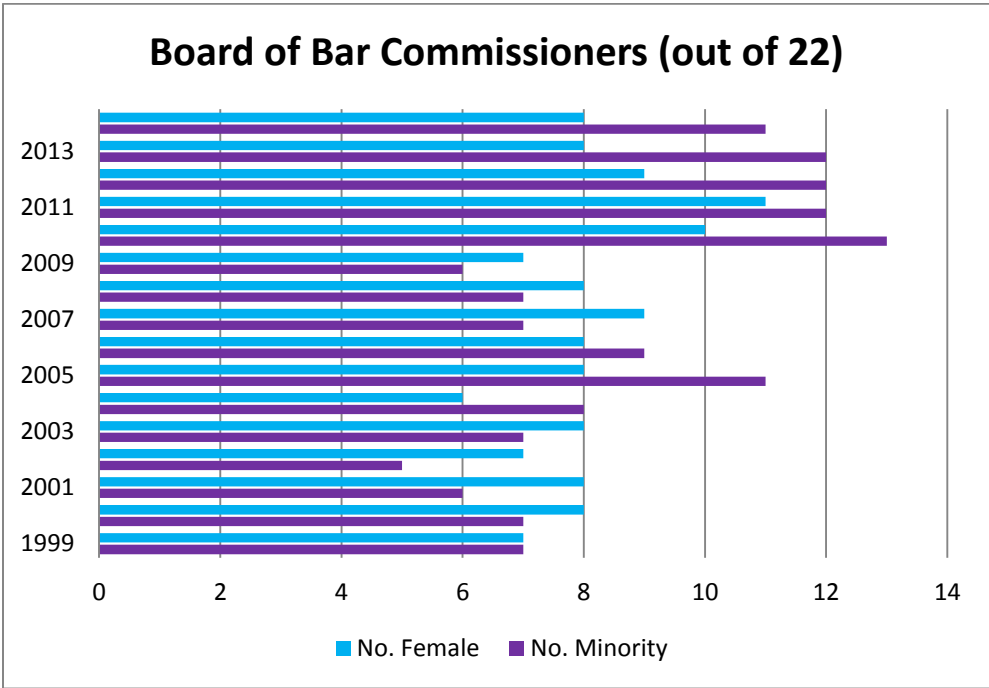




In every year except 2011 (when there were no Hispanic disbarments) Hispanic bar members have been disbarred and suspended at rates exceeding – and usually far exceeding – their proportion of the bar.

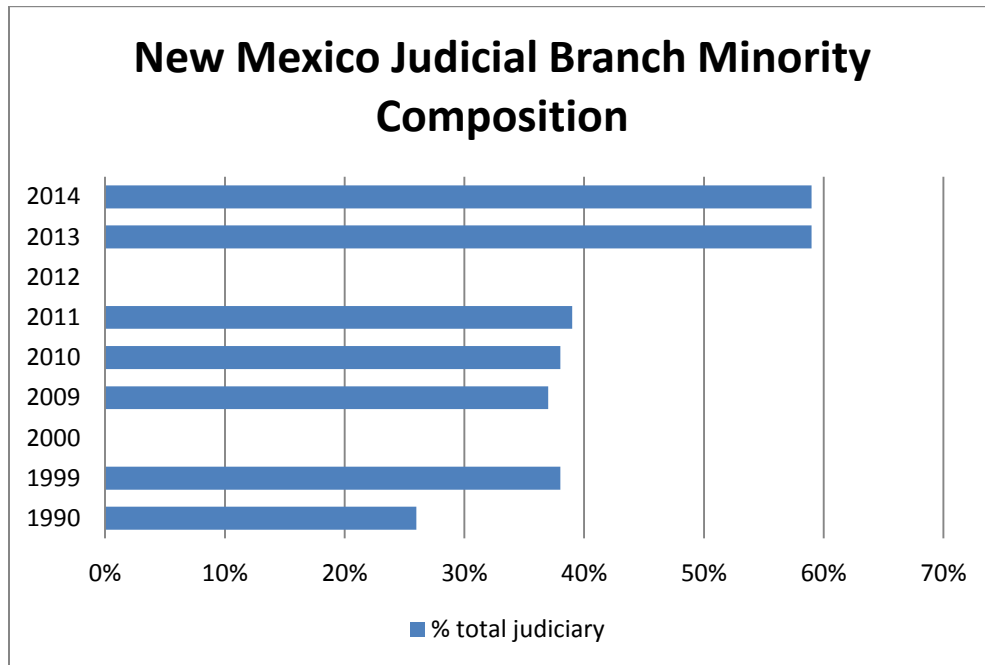
Bar Leadership

The membership of the Board of Bar Commissioners has become increasingly female and minority; however the Board has never had a female majority and has had a minority majority four times in the past sixteen years.



New Mexico Judicial Branch Composition

For the past two years, the New Mexico judicial branch has been composed of 59% minority members – very close to the census population percentage of 61%. We have no data for years 2000 and 2012.



Findings

The data contained in this report shows that the State Bar of New Mexico is not increasing the number of minority lawyers proportionally with the rise in the state’s minority population, including Hispanic New Mexicans, and that it is falling far behind in recruiting Black law students. Minority and women lawyers make less than White male lawyers. While it is doing much better than many states in recruiting women and minority law students, New Mexico continues to have a lower bar passage rate for Hispanic, Black, and Native American applicants. Professional discipline is imposed disproportionately on minority New Mexico lawyers. The one area in which New Mexico is doing well is in the composition of the New Mexico judicial branch.

Recommendations

While pointing out these findings from the data collected for this interim report, the Diversity Committee chooses not to make a large number of programmatic recommendations more appropriate for the Committee’s next ten year report. The Committee notes that the State Bar continues to take

significant steps to maintain and increase the diversity of New Mexico's legal profession by sponsoring the Arturo Jaramillo Clerkship Program, by creating the Entrepreneurs in Community Lawyering Solo and Small Practice Incubator, and by offering continuing education programs on implicit bias and other germane topics. The New Mexico legal profession has a number of vital minority bar associations, which support their members and recruit others to the profession.

The Committee's recommendations focus on three issues – increasing the quality of data on diversity issues, participating in the planning for the next bar compensation study, and planning for the next comprehensive ten year report – planned for 2019.

Increasing the quality of our data on diversity

1. The Bar staff have converted to a Sequel database that will support the maintenance of demographic data on bar membership over time.
2. The Committee recommends that the Board of Bar Commissioners ask the New Mexico Supreme Court to authorize the Bar to require reporting of personal racial and ethnic information as part of the annual license renewal process.
3. The Committee recommends that the Bar ask the Dean of the UNM Law School to make available data on the composition of judicial nominating committees and the race and ethnicity of judicial candidates, of candidates recommended to the Governor, and of persons appointed by the Governor. This information was compiled by the Dean's office in the past but is no longer maintained. Bar staff are willing to compile the information in a permanent and researchable format if the Dean's office makes the raw information available.
4. Representatives of the Committee have met with the Board of Bar Examiners to request more complete race and ethnicity data from the BBE. We have data on UNM graduates, but not on persons from other states taking the bar exam. With the advent of the new national Uniform Bar Examination it is important that the State Bar be aware of any racially disparate impacts that may arise from the new admissions process.

Participating in the upcoming 2017 compensation study

1. Bar staff are contemplating a new compensation study to be conducted in 2017.
2. The Committee on Diversity offers to participate in the planning of that survey to maximize participation in the survey and to maximize the value of the data collected.

Planning for the 2019 Diversity Study

1. The UNM Law School has historically promoted diversity within its student body and has been a major contributor to the diversity of the New Mexico State Bar. The bar admissions process will change dramatically in the next few years, with the introduction of admission on motion based on reciprocity or a qualifying score on the Uniform Bar Examination. The 2019 study should examine the impact of these processes on bar diversity.

2. In particular, this analysis should address the importance and viability of “pipeline programs” to attract more New Mexico minority high school and college students to a legal career in the new bar admissions environment.
3. The study should look at national trends in law school applications and admissions and their impact on bar passage rates and bar diversity.
4. The study should study the impact of the rising cost of education on bar diversity and in diversity in other professions.
5. The study should examine ways to reduce the financial burdens associated with high levels of debt as a result of law school loans, including loan forgiveness programs associated with public service law practice.
6. The study should explore the impact on bar diversity of generational differences in persons approaching career and educational choices.
7. The study should focus increased attention on persistent racial and ethnic disparities in bar discipline, including the effectiveness of corrective action in reducing or eliminating future ethical lapses.